

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

BRENT RITCHIE,

Plaintiff,

v.

Case No. 3:17-cv-00844-AC

OPINION AND ORDER

DANIEL STATON, Multnomah County
Sheriff; by and through the
**MULTNOMAH COUNTY SHERIFF'S
OFFICE**, a political subdivision of
Multnomah County, Oregon,

Defendants.

MOSMAN, J.,

On March 28, 2018, Magistrate Judge John V. Acosta issued his Findings and Recommendation (F&R) [29], recommending that Defendants' Motion to Dismiss [11] should be granted with prejudice as to the First Claim for Relief, and granted without prejudice as to the Second Claim for Relief, to the extent that Plaintiff may refile the Second Claim in state court. No objections were filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to

make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Acosta's recommendation and I ADOPT the F&R [29] as my own opinion. Defendants' Motion to Dismiss [11] is GRANTED with prejudice as to the First Claim for Relief, and GRANTED without prejudice as to the Second Claim for Relief, to the extent that Plaintiff may refile the Second Claim in state court. IT IS SO ORDERED.

DATED this 16 day of May, 2018.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge